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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/043,420      | 01/10/2002  | Glenn A. Fickett     |                     | 9654             |

22864 7590 02/24/2004

FRANK J. MCGUE  
10801 N. 32ND STREET SUITE 5  
PHOENIX, AZ 85028

EXAMINER

TRAN, KHOA H

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/043,420 | <b>Applicant(s)</b><br>FICKETT GLENN |  |
|                              | <b>Examiner</b><br>Khoan Tran        | <b>Art Unit</b><br>3634              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-11,14, and 15 is/are pending in the application.  
     4a) Of the above claim(s) 1,3-10 and 15 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
 7) ☒ Claim(s) 11 and 14 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/07/03</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Applicant's election without traverse of species II, Figures 5, 6, 8 and 9 in Paper No. 7 is acknowledged. Accordingly, claims 1, 3-10, and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species. It should be noted that claims 1 and 9 are not readable on the elected species because the positive inclusion of a wall brace portion (46) extending rearward from the elongated vertical portion and adapted to engage a vertical wall. See claims 1 and 9, lines 21-23. Note that the elected species of Figure 5 does not show a wall brace portion leans against a vertical wall because of a center connector (110) connects a plurality of racks together so that no rack is leaned against a vertical wall.

***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on October 20, 2004 have been approved.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a quick release pin engages with a center connector hole and a wall brace portion hole in order to secure the wall brace portion with the center connector in claim 14 must be shown or the feature canceled from the claim. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 is misdescriptive and/or incorrect because it is unclear how each rack of the three modular storage supports having an L-shaped wall brace for engages with a vertical wall when these three modular storage support racks are connected by a center connector, see lines 22-26 of the claim.

***Allowable Subject Matter***

Claim 11 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 11 and 14 are allowable over the prior art of record because none of the prior art of record teaches or suggests a modular support system possessing the entire combination of features specified by the claims. In particular, there is no teaching or suggestion from the prior art of record of three modular storage support devices that are connected by a center connector having three of the wall brace portions at 120 degrees from other wall brace portions, see lines 4 and 37-39.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group before a final Office action is (703) 872-9306 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khoa Tran

February 22, 2004



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600